

Public Health Service, HHS

§ 52b.8

State agency administering or supervising the administration of the State plan approved under section 314(a) of the Act, and (2) the public or nonprofit private agency or organization responsible for the plan or plans referred to in section 314(b) of the Act and covering the area in which such project is to be located or if there is no such agency, such other public or nonprofit private agency or organization (if any) as performs, as determined in accordance with criteria of the Director, similar functions.

(Sec. 215, Public Health Service Act, 58 Stat. 690, 67 Stat. 631 (42 U.S.C. 216); sec. 406(b), Public Health Service Act, 92 Stat. 3428 (42 U.S.C. 286a); sec. 404(b)(9), Public Health Service Act, 92 Stat. 3427 (42 U.S.C. 285))

[45 FR 12243, Feb. 25, 1980, as amended at 48 FR 29201, June 24, 1983; 48 FR 45558, Oct. 6, 1983]

§ 52b.5 Evaluation.

In approving applications for construction grants under this part, the Director shall take into account, among other factors, the following:

- (a) The relevance of the program for which construction is proposed to the objectives and priorities of the National Cancer Program (42 U.S.C. 286a),
- (b) The scientific merits of the program for which construction is proposed,
- (c) The scientific or professional standing or reputation of the agency or institution and of its existing or proposed officers and research staff,
- (d) The availability, by affiliation or other association, of other scientific or health personnel and facilities to the extent necessary to carry out effectively the contemplated program, including the adequacy of an acceptable biohazard control and containment program where warranted,
- (e) The need to accomplish appropriate geographical distribution of facilities, and
- (f) The financial need of the applicant.

§ 52b.6 Other HHS regulations that apply.

Several other regulations apply to grants under this subpart. These include, but are not limited to:

42 CFR part 50, subpart D—Public Health Service grant appeals procedure

45 CFR part 16—Procedures of the Departmental Grant Appeals Board

45 CFR part 74—Administration of grants

45 CFR part 75—Informal grant appeals procedures

45 CFR part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of title VI of the Civil Rights Act of 1964

45 CFR part 81—Practice and procedure for hearings under part 80 of this title

45 CFR part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance

45 CFR part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

[49 FR 38110, Sept. 27, 1984]

§ 52b.7 Rate of Federal financial participation.

(a) The amount of a construction grant may not exceed 75 percent of the necessary allowable cost of construction as determined by the Director, except that in situations where the Director finds good cause for waiving requirements, for example, in order to achieve sufficient geographical distribution of facilities, the amount of the construction grant may exceed 75 percent of the necessary allowable cost of construction.

(b) Subject to paragraph (a) of this section, the Director shall set the actual rate of Federal financial participation in the necessary allowable cost of construction taking into consideration the most effective use of available Federal funds to further the purposes of section 406(b) or section 404(b)(9).

§ 52b.8 Terms and conditions.

In addition to any other requirement imposed by law or determined by the Director to be reasonably necessary with respect to any particular grant to fulfill the purposes thereof, each construction grant shall be subject to the condition that the applicant provide certain evidences, supported by such documentation as the Director may reasonably require. The Director may for good cause shown approve exceptions to these conditions and evidences

where the Director finds that such exceptions are not inconsistent with the Act and the purposes of the program:

(a) *Title.* That the applicant has a fee simple or such other estate or interest in the site, including necessary easements and rights-of-way sufficient to assure for the estimated useful life of the facility, as determined by the Director, undisturbed use and possession for the purpose of the construction and operation of the facility.

(b) *Plans and specifications.* That approval by the Director of the final working drawings and specifications will be obtained before the project is advertised or placed on the market for bidding and that such approval shall include a determination by the Director that the final plans and specifications conform to the minimum standards of construction and equipment as set forth in § 52b.11 of this part.

(c) *Relocation assistance.* That in the case of a public applicant with an approved project which involves the displacement of persons or businesses on or after January 4, 1971, the applicant will comply with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ((42 U.S.C. 4601 *et seq.*), 84 Stat. 1984) and the applicable regulations issued thereunder (45 CFR part 15).

(d) *Approval of changes in estimated cost.* That the applicant will not enter into any construction contract or contracts for the project or a part thereof, the cost of which is in excess of the estimated cost approved in the application for that portion of the work covered by the plans and specifications, without the prior approval of the Director.

(e) *Completion responsibility.* That the applicant will construct the project, or cause it to be constructed, to final completion in accordance with the grant application and approved plans and specifications.

(f) *Construction inspection.* That the applicant will provide and maintain competent and adequate architectural or engineering inspection at the construction site to insure that the completed work conforms with the approved plans and specifications.

(g) *Non-Federal share.* That sufficient funds will be available to meet the

non-Federal share of the cost of constructing the facility.

(h) *Funds for operation.* That sufficient funds will be available when construction is completed for effective use of the facility for the purposes for which it is being constructed.

(i) *Inspection.* That the Director and the Director's representatives shall have access at all reasonable times to work wherever it is in preparation or progress, and the contractor shall provide proper facilities for such access and inspection.

(j) *Accessibility to handicapped.* That, the facility shall be designed to comply with the Federal Accessibility Standard (41 CFR subpart 101-19.6) as modified by other standards prescribed by the Director or the Administrator of General Services. The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor.

(k) *Minimum standards of construction and equipment.* That the plans and specifications for the project will conform to the minimum standards of construction and equipment as set forth in § 52b.11 of this part.

[45 FR 12243, Feb. 25, 1980; 45 FR 20096, Mar. 27, 1980]

§ 52b.9 Acquisition of facilities.

In addition to the other requirements of this part, the following provisions are applicable to the acquisition of existing facilities.

(a) *Minimum standards of construction and equipment.* A determination by the Director that the facility conforms (or upon completion of any necessary construction will conform) to the minimum standards of construction and equipment as set forth in § 52b.11 of this part, shall be obtained before entering into a final or unconditional contract for such acquisition. Where the Director finds that exceptions to or modification of any such minimum standards of construction and equipment would be consistent with the purposes of section 406(b) or section 404(b)(9) of the Act, the Director may authorize such exceptions or modifications;